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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,609	11/07/2001	Arman Glodjo	22593-06028	9713
758	7590	10/14/2004	EXAMINER	
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			BASHORE, ALAIN L	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/005,609

**Applicant(s)**

GLODJO ET AL.

**Examiner**

Alain L. Bashore

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 43-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 43-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. The previous office action has been re-mailed with corrections and further explanation to the 35 U.S.C 101 rejection, and further including correction to wording of the rejection of petition as being made final.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 46 and 55 are rejected under 35 U.S.C. 101 as non-statutory. A computer-readable medium encoded with a data structure must positively recite in the body of the claim at least one recitation defining structural and functional interrelationships between the data structure and the computer software and hardware components (a useful, concrete and tangible result produced) that the computer uses the medium for. This permits the data structure's functionality to be realized, as more than a manipulation of an abstract idea [*In re Wamerdam*, 33 F.3d 1354; 31 USPQ2d 1754 (Fed. Cir. 1994)].

A claimed computer-readable medium encoded with a functional data structure – this defines structural and functional relationships between the data structure and the hardware/software components. See *Wamerdam*.

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A claimed computer-readable medium encoded with a computer program - this defines structural and functional relationships between the computer program and the computer itself which allows the program's functionality to be realized provided that a useful, concrete and tangible result is realized. See U.S. Patent 5,710,578 to Beauregard et al.

In this particular case the program instructions are not recited as embodied on the medium only that program instructions are "for enabling". Without a claimed nexus between the medium and the steps claimed all the recited steps are non-functional descriptive material.

***Petition re Drawings***

4. The rejection of the petition under 37 CFR 1.84 (a)(2) to accept color drawings (figures 13 through 22) is hereby made final.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2, 8, 10-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitchen et al in view of Silverman et al (083).

Kitchen et al discloses a system for facilitating trading two items from the group of items comprising commodities and financial instruments. The system includes: at least two agents that want to trade the items and a trading channel between the two agents allowing for the execution of trades (para 0014), flow limits on the traded items and on any underlying instruments to be exchanged upon settlement of the traded items (para 0016) and a central computer coupled to the two agents, said computer adapted to convey current tradable bid and offered prices and sizes subject to the agent's flow limits ( fig 20). The central computer updates the current tradable information after each trade ( para 0138). Affix dates and time stamps on trade orders posted by the agents are present (fig 5).

Kitchen et al does not disclose conveying to each agent individualized current tradable bid and offered prices and sizes subject to that agent's flow limits.

Silverman et al (083) discloses conveying to each agent individualized current tradable bid and offered prices and sizes subject to that agent's flow limits (col 2, lines 39-63).

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It would have been obvious to one with ordinary skill in the art to include conveying to each agent individualized current tradable bid and offered prices and sizes subject to that agent's flow limits because Silverman et al (083) teaches the importance of credit availability for all parties in a trade (col 2, lines 39-63).

7. Claim 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitchen et al in view of Silverman et al (083) as applied to claims 1 above, and further in view of Feilbogen (045) et al.

Kitchen et al in view of Togher et al does not disclose agents as being credit-extending or non-credit-extending.

Feilbogen et al discloses agents as being credit-extending or non-credit-extending (para 0004).

It would have been obvious to one with ordinary skill in the art to include to Kitchen et al agents as being credit-extending or non-credit-extending because Feilbogen et al discloses parties of both types involved in trading (para 0018).

8. Claim 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitchen et al in view of Silverman et al (083) as applied to claims 1-2, 8, 10-18 above, and further in view of Wilton et al.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kitchen et al in view of Togher et al in further view of Wilton et al.

Kitchen et al in view of Silverman et al (083) does not disclose the recitations of claims 5-7. Kitchen et al in view of Silverman et al (083) also does not disclose the credit-extending and non-credit extending agent relationships as recited in claim 9.

Wilton et al discloses credit-extending agents relationships to non-credit extending agents (col 5, lines 12-30).

It would have been obvious to one with ordinary skill in the art to include credit-extending agents relationships to non-credit extending agents as recited in claims 5-7 and 9 because Wilton teaches that credit extending agents may have multiple relationships with others such entities (col 5, lines 15-25).

9. Claims 43-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitchen et al in view of Silverman et al (083) further in view of Neyman et al in further view of Mandler et al.

Kitchen et al in view of Silverman et al (083) discloses what is described in the pervious rejections. There is further disclosed to Kitchen et al displaying a custom limit orders.

Kitchen et al in view of Silverman et al (083) does not disclose multi-hop trading limits between agents or graphing a network comprising nodes representing agents.

Neyman et al discloses multi-hop trading limits between agents (para 0019) utilizing an algorithm (para 0064) and graphing a network comprising nodes representing agents (figs 4-7).

It would have been obvious to one with ordinary skill in the art to include multi-hop trading limits utilizing an algorithm between agents to because Neyman et al discloses multi-hop trades as facilitating credit limitations of traders (para 0006).

It would have been obvious to one with ordinary skill in the art to include graphing a network comprising nodes representing agents because Neyman et al discloses the importance of nodal relationships in trading (para 0061 and 0062).

Kitchen et al in view of Silverman et al (083) further in view of Neyman et al do not disclose credit bridges between agents.

Mandler et al discloses credit bridges between agents (col 1, lines 23-31; col; col 8, lines 37-45).




It would have been obvious to one with ordinary skill in the art to include bridging agents because Mandler et al teaches routine to provide credit to entities in trading (col 1, lines 23-31).

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alain L. Bashore whose telephone number is 703-308-1884. The examiner can normally be reached on about 7:00 am to 4:30 pm (Monday thru Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Alain L. Bashore  
Primary Examiner  
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